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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,839	02/27/2007	Gino Cocchi	25450502	2819

7590
Harbin King & Klima
500 Ninth Street SE
Washington, DC 20003

06/22/2009

EXAMINER

LONG, DONNELL ALAN

ART UNIT	PAPER NUMBER
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3754

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,839	Applicant(s) COCCHI, GINO	
	Examiner DONNELL LONG	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/01/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Regarding claims 2, 5, and 6, the phrase "may be" renders the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

3. Claim 1 recites the limitation "second cylindrical seat" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over IMA (GB1004188) in view of Patrinos (4214678).

Regarding claim 1, IMA discloses a hatch with a dispensing piston for ice cream making machines, characterized in that it comprises:

at least one cylindrical seat (1) having a vertical axis communicating by means of a radial duct (10, 11) with a freezing cylinder (pg. 1, lines 60-69 and pg. 2, lines 24-30) and housing, in a manner rotatable about its axis; and

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a cylindrical sleeve (2) provided with a radial hole (12, 13) and with operating means (3) for aligning in a first position the hole with the outlet of the radial duct connected to the freezing cylinder, while in a second position this cylindrical sleeve closes off the connection with the freezing cylinder, the sleeve having mounted axially slidably inside it a dispensing piston (7), the bottom of the cylindrical seat being closed off by a base element (8) provided with an opening (9) suitably shaped for extruding the ice cream.

IMA DIFFERS in that it does not disclose a base element provided with a plurality of openings as claimed. Attention, however, is directed to the Patrinis reference, which discloses another food product dispenser having a base element (34) provided with a plurality of openings (18) suitably shaped for extruding ice cream.

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the IMA reference in view of the teachings of the Patrinis reference in order to allow a user to dispense the ice cream in a different form (e.g. spaghetti-shaped) according to the preferences of the user.

Regarding claim 2, the modified IMA discloses the claimed invention except for the addition of a second hatch as claimed to create a double hatch ice cream dispenser. It, however, would have been obvious to one having ordinary skill in the art at the time the invention was made to add a second hatch, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Furthermore, using multiple taps (e.g. a

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double hatch) to dispense different flavors of ice cream is well known in the art (IMA, pg. 1, lines 29-38).

Regarding claim 3, the bottom of the piston (IMA, 7) is provided with projections (Patrinis, 20) complimenting the holes (Patrinis, 18) of the base or extrusion element (Patrinis, 34).

Regarding claim 4, means (IMA, 3) are provided for exact positioning of the piston (IMA, 7) inside its cylindrical seat in the sleeve (IMA, 2) in such a way that the projections (Patrinis, 20) on the bottom of the piston are exactly aligned with the holes in the complementary base/extrusion element.

Regarding claim 5, the piston is operated manually (i.e. by a user actuating the handle, 5) and mechanically (i.e. by the linkage mechanism comprising elements 4, 5, 6, and 7).

Regarding claim 6, the ice cream dispensing side of the hatch may or may not be associated with means for dispensing dressing syrup.

Regarding claims 7-9, the hatch is suitable for mounting on a machine with one or more freezing cylinders (pg. 1, lines 60-69).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNELL LONG whose telephone number is (571) 270-5610. The examiner can normally be reached on M-F 8AM-5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. L./

Examiner, Art Unit 3754

/Kevin P. Shaver/

Supervisory Patent Examiner, Art Unit 3754